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1906

**MINING CODE**  
**OF**  
**NICARAGUA**











*Nicaragua.*

# MINING CODE of Nicaragua

1906



TRANSLATED FROM  
SPANISH TO ENGLISH  
BY

DELARONDE DUCROS  
ATTORNEY AT LAW AND NOTARY

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ADMITTED TO THE NEW ORLEANS BAR 1880

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INCORPORATED BEFORE THE LAW AND NOTARIAL  
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# MINING CODE OF NICARAGUA.

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## TITLE I.

### Of Mines and Their Ownership.

ARTICLE 1.—The State is the owner of all the gold, silver, copper, platinum, mercury, lead, zinc, bismuth, antimony, cobalt, nickel, solder, arsenic, iron, chromium, magnesia, molybdena, vanadium, rodium, iridium *tugsteno* and sulphur mines as well as of those of saltpetre, precious stones, coal and other fossil substances contained in the bowels of the earth notwithstanding the dominion of individuals or corporations over its surface.

ART. 2.—Individuals are conceded the right of prospecting and excavating on lands of any ownership with a view of searching for the mines referred to in the preceding article; to work and improve the said mines and also dispose of them as owners upon filling the legal requisites and complying with the rules prescribed in this Code.

ART. 3.—The acquisition of the mines referred to in Article 1 is free to all individuals whatever may be the origin or formation, with the exception, however, of those of sulphur, saltpetre, coal and other fossils, the exploitation of which shall be by contract with the Government of the Republic.

ART. 4.—Those mineral substances which are to be found in the uncultivated or vacant lands of the State or Municipalities may also be freely acquired by individuals.

ART. 5.—The precious stones and metals found isolated and in their natural state on the surface of uninclosed lands, no matter who owns the land, belong to him who first took possession of them, *i. e.*, the precious stones or metals.

ART. 6.—Stones for construction or adornment, sand, slate, argil or alumina, lime, puzzolana, peat, marl, and other substances found on unoccupied lands belonging to the State or Municipalities can be commonly exploited by individuals; but without prejudicing the right of the State or Municipalities to concede them in their extension under conditions to be specified by special contracts or established by special regulations.



ART. 7.—The substances mentioned in the preceding article, which are found on individual property, belong to the owner thereof.

ART. 8.—The exploitation of auriferous sands, as well as other sands, and any other mineral productions of the rivers and placers is free whenever these are found on uncultivated lands, notwithstanding any right of ownership by others.

But when the exploitation is carried on with fixed establishments, then this shall be done in the form of mining claims.

ART. 9.—The clearings, waste and "tailings" of abandoned mines form an integral part of the mine to which they belong; but as long as the mine has not passed into individual ownership, then these may be put to common use.

The use of the waste and "tailings" of old mining plants abandoned by the owner is free to all when these are found on lands not fenced or walled in.

ART. 10.—When the existence of a mine has been recognized, then the surface of the land becomes subject to the servitude of occupancy over the extent necessary for the convenient exploitation of the mine as the works and improvements thereof require. This servitude is for the purpose of establishing ore bins, terraces, furnaces, machinery for the extraction and working of the metals, even when mixed with others; for the building of laborers' houses and roads of transportation to the commons, not only for transporting the productions of the mine, but also that which is necessary for its exploitation and working of its metals.

ART. 11.—The wood found on surfaces of uncultivated or uninclosed lands can be made use of for the purposes of the works of the mine; but this right of cutting the wood ceases when the owner of the land delivers the wood already cut.

ART. 12.—The servitudes referred to in the preceding articles can only be constituted by previous indemnity, not only of the value of the land occupied and that of the materials extracted from it, but also all damages caused to the owner of the surface or to any other person.

ART. 13.—The roads opened by a mine can be made use of by the others which are in the same neighborhood; but the costs of maintaining the roads shall be divided *pro rata* according to the use which is made of them.

ART. 14.—The surface of the land (where the mine is located) as well as that of adjacent lands is subject to the servitude of pasturage for the animals employed in the exploitation





of the mine as long as these (the lands) remain unoccupied and uninclosed; the natural waters are also subject to the servitude for drinking purposes for the employees and animals. On these lands all works can be constructed so as to provide the water required for operating the machinery and necessary to the exploitation of the mine as long as these waters are not made to become inadequate to the uses to which they are destined, and the previous corresponding indemnity is always understood.

ART. 15.—Those waters which proceed from the subterraneous works of the mines belong to them.

ART. 16.—The mines form an immovable, distinct and separate from the land and its surface although these (the mines) and the land belong to the same owner. The property right, possession and enjoyment of these (the mines) are transferable as all other property, but subject to the special dispositions of this Code.

ART. 17.—The things and objects permanently destined by the owner of the mine to its exploitation are reputed as accessory immovables, such as the buildings, machinery, pumps, instruments, tools and animals.

But the animals and objects employed in the personal service of the owner; those employed in the transportation and commerce of the minerals or its products, tools, provisions necessary for its exploitation, and other personal objects of the owner or exploiters shall not be considered as immovables.

ART. 18.—Mines are not susceptible of material division.

Neither is it permitted to one of the partners in a mine to exclusively appropriate to himself one or more determined parts of the works in operation.

Notwithstanding this, the interest of two or more partners may be divided into portions or shares.

ART 19.—The law grants to individuals the perpetual ownership of the mines under the condition of paying annually a license for each hectare in the superficial extension of the mine. It is understood that that right of ownership is lost on the failure to comply with that condition; this to be declared by previous legal proceedings established by this Code.

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## TITLE II.

### Investigation and Prospecting.

ARTICLE 20.—The right of prospecting and excavating in search of mines can be freely made use of on lands that are not inclosed or dedicated to cultivation.



ART. 21.—So as to execute investigating works on arable or unirrigated cultivated lands, the permission of the owner of the land or his agent must be solicited.

In case the permission is refused by the owner or his agent, then the District Judge of the locality may, on previous verbal hearing of the parties interested, grant or refuse the permission.

ART. 22.—In the permit extended the number of people who can be employed in the investigation shall be fixed by the judge, and this permit shall be extended under the following conditions:

1st. That the investigation be made precisely at a time when there is no crop on the land.

2d. That the investigation be made within sixty days, counting from the date of the permit.

3d. That the one who solicits the permit give a bond (if the owner of the land should exact it) to respond for all the damages which the investigation may cause the owner.

ART. 23.—He who has obtained from the judge a permit to make an investigation shall have no right under any motive whatever to solicit a new permit in regard to the same land.

ART. 24.—If, for justifiable causes, the investigation was not effected within the time specified, then the competent authority may, on a petition, change the permit to another opportune period.

ART. 25.—The Judge shall have no authority to grant permits to excavate in houses, gardens, or orchards; neither on any class of lands used for irrigating, nor on arable or unirrigated lands planted with trees or having vineyards thereon.

ART. 26.—The excavations or opening of other mining works are not allowed within the distance of fifty meters of a building or of a railway, and neither on a lot of land the declivity of which is superior or inferior to that of any road or canal within the same distance without the special permit of the Political Chief of the Department, who will grant the same should there be, in the opinion of an engineer appointed for the purpose, no objection. And the measures necessary for all security shall be prescribed.

ART. 27.—That which is provided for in the preceding Article shall be observed whenever the works to be executed are within less than one hundred meters of the canals, aqueducts, watering places for cattle, or springs.

ART. 28.—In the ports, submarine works for the purposes already indicated cannot be executed without the permission of the Commander of the Port, and this after a previous expert investigation.





ART. 29.—In the execution of the works above mentioned, which are within a distance of one thousand five hundred meters of fortified points, the permission of the respective military authority is also necessary.

ART. 30.—The contravention of the preceding Articles shall be punished by a fine of from fifty to five hundred dollars, outside of the right of claiming indemnity for the damages which may have been caused.

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### **TITLE III.**

#### **Of Those Who May Acquire Mines.**

ARTICLE 31.—Everyone who is legally capable of possessing immovable property in Nicaragua can by all the legal means acquire mines subject to the exceptions mentioned in the Article which follows.

ART. 32.—The acquisition of mines, or any portion or interest therein is prohibited to:

1st. The Mining Engineers who exercise administrative functions in mining matters within the limits in which they exercise these functions.

2d. The Mining Judges who are invested with the administration of justice in mining suits, within their territorial jurisdiction.

3d. The offspring or those who are under the paternal authority of the functionaries mentioned.

ART. 33.—The prohibition mentioned in the foregoing Article does not apply to the mines which may have been acquired by the wives and children of the said functionaries by title of heirship.

ART. 34.—The mine, part thereof, or shares acquired in contravention of that which is stipulated in Article 32, shall be looked upon as being vacant and shall be adjudicated to him who solicits or denounces the same.

ART. 35.—No one can acquire under title of having been the discoverer, or having caused the registry, nor the concessionaire of these, more than three mining claims on the same ledge; but any person who is legally competent to obligate himself, may, by other titles and without limitation, acquire as many claims as he may wish.

ART. 36.—The adult minor can, without the consent or authority of his father or guardian, acquire the mines which he may have discovered or registered, and these shall remain to the benefit of his own industrial fund.



## TITLE IV.

### Of the Discoveries of Mines, and of the Modes by Which Their Ownership is Constituted.

ARTICLE 37.—The discoverer of mines within the radius of four kilometers where no others have been recorded is called *discoverer of a virgin hill*.

ART. 38.—The discoverer of a mine within the radius of four kilometers of a recorded mine is called *discoverer on a hill already known*.

ART. 39.—He who first solicits the registry shall be acknowledged as the discoverer, save, however, where fraud is proven by an anticipated declaration and thus delaying the registry of him who really was the first discoverer.

ART. 40.—He who, in the execution of mining works by order or for account of another discovers a mine, shall not be considered as the discoverer, but the discovery shall be for the benefit of the one in whose name the works were performed.

ART. 41.—The discoverer of a mine must make the declaration of his discovery before the competent Judge.

In this declaration he shall state his name, and those of his partners, if there be any; the signs or marks which characterize the locality of the prospect; the shaft or other work in which the mineral is to be found; a sample of the mineral shall also be produced; the kind of mineral and the name which he wishes to give to each of the claims to which he may be entitled.

ART. 42.—Each claim must be registered and demarked separately.

ART. 43.—In the declaration it must also be stated whether the discovery is on a virgin hill or one already known.

ART. 44.—The discoverer of a virgin hill is entitled to three claims. All others can only acquire one claim by virtue of their discovery.

ART. 45.—What is denominated as a claim is the space conceded to the miner for the exploitation of the mine.

ART. 46.—The claim consists of a solid rectangular base of an indefinite depth within the vertical plans by which it is bounded; this space is of the extent of five superficial hectares as a maximum, and of one hectare as a minimum in accordance to that which shall hereafter be mentioned.

ART. 47.—The discoverer on a virgin hill is the only one





who has a right of soliciting claims within the radius of four kilometers counted from the shaft of the discovered claim, during the fifty days following the registry.

ART. 48.—The Judge before whom the declaration is made shall write thereon his certificate specifying the hour of the presentation of the declaration. He shall also make an entry in a folioed record book which he shall keep for this purpose, and give a receipt to the interested party should he demand it.

ART. 49.—The same Judge shall order that the declaration be recorded, and also the publication thereof.

ART. 50.—This registry is the entire transcription of the declaration or petition and of that which has been decreed, with a certificate as to the day and hour of the presentation of the declaration which shall be entered in the Registry of discoveries to be kept by all District Courts.

ART. 51.—The publication of the registry shall be effected by inserting the same three times, once every ten days at least, in a newspaper published in the Department, should there be one.

ART. 52.—Should there be no newspaper in the Department, then the publication shall be effected by means of notices affixed to the door of the District Court, during thirty days, which notices shall also be posted in the most frequented places.

ART. 53.—The discoverer is under the obligation of uncovering the vein discovered within ninety days counted from the date of the registry, by making on the body of the ledge a shaft, tunnel or drift, or a combination of these, which must reach at least a depth of eight meters from the surface to the end that the class of mineral, the thickness, direction and inclination of the ledge and all other particulars which go to show the existence of the mine may enable one to determine its characteristics.

ART. 54.—After having opened the shaft or entrance to the mine which is treated of in the foregoing article, the discoverer must place visible provisional boundary posts which are to be placed in every one of the extremities. Successively he must, by means of a petition addressed to the Judge of the district, ratify the registry, in which petition he shall express the circumstances that characterize his mine, the directions towards which he has provisionally measured and bounded his claim with the number of hectares composing the same.

This petition shall be recorded in the same manner as was the declaration.

ART. 55.—The discoverer must comply with the obligations specified in the preceding article within the period granted him to have the shaft ready.



ART. 56.—The records referred to shall serve as a provisional title to the mine until the definitive title thereto is executed by virtue of the claim having been measured by order of judicial authority issued on the petition of the discoverer or party interested.

ART. 57.—The definitive title to a mine must be executed within one year, counted from the time that the mine was registered.

ART. 58.—Should the discoverer not desire a provisional title, but prefer the definitive one, then he shall so express it in his petition for the ratification of the registry.

ART. 59.—Should the discoverer fail to open the shaft, and, though he may have done this, he does not ratify his registry, then it shall be considered that he has renounced his rights.

ART. 60.—An error appearing in any of the circumstances (requisites) mentioned in regard to the ratification of the registry can be cured at any time; and the ratification shall be ordered to be inscribed in the record. All of this is understood to be without prejudice to third persons.

ART. 61.—He who pretends to have a better right to a discovery must file his claim within the period which is conceded the one who registered. That is to say the period within which the ratification of the registry must be applied for. He, the pretender who appears after this shall not be listened to.

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## TITLE V.

### Of the Mining Claims on Hills Already Discovered.

ARTICLE 62.—Ninety days after the ratification of the registry, any person, legally capable, has the right of soliciting one claim so as to prospect the land contiguous and in the same line or direction demarked by the discoverer.

These petitions shall be inscribed in the registry in the same manner as the declaration of the discovery.

ART. 63.—Should two or more solicit mining claims going in the same direction, he who first makes the application shall be preferred, and the others in succession.

ART. 64.—Should the grantee find no mineral or layer, or fail to register his claim within the time named in Article 53, he shall forfeit his rights, and the mining claim (*pertenencia*) may be conceded to the first who solicits it while the first named





shall not have uncovered or registered the claim.

But should the grantee have executed sufficient and well directed works within the time specified without having been able to find a bed or layer due to the sloping or rugged condition of the hill or for any other cause not imputable to him, then he may on his petition and with a previous examination as to the facts and a report of the Engineer, be granted an extension of time, which, however, cannot exceed the period of time primitively conceded.

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## TITLE VI.

### **Of the Demarcation or Measurement of the Claims, and the Execution of the Definitive Property Title.**

ARTICLE 65.—So as to proceed to the demarcation or measurement of a claim, the adjacent mine owners must be previously personally cited if they are known or reside in the department; when the owner of a mine resides outside of the department, then the citation will be served on the administrator thereof. When neither the owner nor administrator can be found in the locality, then the former shall be cited by means of an edict which shall be posted on the courthouse door during fifteen days, which edict shall also be published three times in a newspaper of the department should there be one.

Those thus cited shall have fifteen days within which to claim the preference in the measurement of their mine or mines.

ART. 66.—The priority in the declaration of a mine, gives a preferential right in its demarcation and measurement, as regards those mines subsequently declared.

ART. 67.—There having been no opposition made to the application for the measurement, or should there have been any which has been definitively adjudged, the Judge shall order the measurement made, but previously notifying the parties as to the day on which this is to be effected.

ART. 68.—The measurement of the claims shall be effected by any mining engineer, and if there be none, then it shall be done by an expert appointed by the Judge. The measurement must be performed in the presence of witnesses in this case.

ART. 69.—The Engineer or expert must first examine the mine, and if from the examination it results that there is a layer or mineral and that the opening of the mine is in legal form, then he shall proceed to demark the claim by distributing the



longitudinal measures on one or both sides of the shaft in accordance to the indications made by the miner in his petition requesting the ratification of the registry, or, as he may request, in case there are no adjacent owners or whenever they do not oppose him. But the shaft must always remain within the boundaries of the claim.

He (the Engineer) shall also gather samples of the mineral and mark the points where the boundary posts are to be placed. These must be firm, durable and well perceptible.

ART. 70.—Each of the parties interested has a right to appoint before the Judge an expert who will be present at the measuring and demarcation so as to oversee the operations of the one who is to make the measurement and demarcation; so that these (the experts) may make on the field their remarks and observations, reclamations and estimations referring to the proceedings as well as take data of the same.

ART. 71.—The latitude (width of the claim shall be measured over a perpendicular horizontal following the direction of the ledge, distributing the claim from one to the other side as the miner requests it; but no more than ten meters can be conceded on the declivity of the ledge if opposition is made by the adjacent mine owners.

ART. 72.—So as to fix the latitude the following schedule shall be observed:

From 30° up to 45° inclusive	200 meters.
From 45° " 50° "	165 "
From 50° " 60° "	135 "
From 60° " 65° "	115 "
From 65° " 90° "	100 "

ART. 73.—The longitude of the mining claim shall be that which is necessary to form the number of hectares which the miner has solicited, taking as a base the measurement of the latitude; this measurement shall be made by following the direction of the ledge, beginning at the point indicated by the miner, provided, however, that the works named in Article 53 remain located within the boundaries of the claim.

ART. 74.—Regarding irregular layers, auriferous sands and others, the mining claim shall be measured in the longitude and latitude solicited by the miner so as to complete the extension which has been conceded to him.

ART. 75.—The mining claims which have been solicited with the object of exploiting lands contiguous to a known mine must



be demarked in such a manner that no vacant space shall intervene between the one and the other.

ART. 76.—The mining claim must always be in continuation. Should it result that there is not space enough left to complete the full measure of the claim on account of there being intervening claims (*pertenencias*), then the measure shall be limited to the free space left between the other claims. It is not, however, permitted to leap over the succeeding mine so as to complete the measure.

ART. 77.—The rest of a lot situated between two claims belongs to the miner who first registered his claim. Should the space, however, exceed one-half of an hectare, then it shall be considered as a complete hectare for all legal effects.

ART. 78.—The Engineers or experts shall take the magnetic North as a base in fixing the lines, giving always, as far as possible, the location or position of the shaft as well as the fixed and perceptible signs which are found on the land, and also annotating their distances. In places where the astronomical meridian is marked, the Engineer shall be careful to annotate the angle of the magnetic declination.

ART. 79.—Having completed the operation of the measurement, the Engineer or expert shall draw an act in which shall be stated clearly, precisely and circumstantially the manner in which the measurement was made, together with the result.

This act shall also contain a relation of the observations and reclamations made by the experts whom the parties may have appointed.

ART. 80.—The aforementioned act after having been signed, by the Engineer, the experts present and two witnesses shall be presented to the Judge, who, on finding it complete and in legal form, or after having corrected the informalities, should there be any, shall order its inscription in the Registry and deliver a copy to the interested party.

ART. 81.—Should there be any divergence between the Engineer and the experts on points of skill, the Judge shall appoint another Engineer or expert who shall act in common with those in disaccord; and should there result in the new operation a majority of conformable opinions, then the inscription shall be ordered in conformity to the judgment of the majority and in the form named in the preceding article.

ART. 82.—When once the operation has been executed in conformity with the preceding Articles, the same shall be unalterable and shall constitute a definitive property title to the mine, which title can only be impugned in cases of errors as to skill appearing on the face of the act or by reason of deceit or fraud.



ART. 83.—The miner who locates within or near a mine already demarked, can, on his petition and at his own expense, demand a rectification upon alleging that that mine has a greater extension than that which is called for in the title.

ART. 84.—This rectification shall be proceeded with in the same manner as laid down regarding the primitive demarcation or measurement.

ART. 85.—The miner is under the obligation of maintaining in good condition the boundary posts of his claim, and shall not alter or change them, under a penalty which shall not be less than fifty nor in excess of five hundred dollars, without debarring his criminal responsibility in case he should have acted maliciously.

ART. 86.—Whenever, by accident or fortuitously, any boundary mark drops down or is destroyed, the miner must notify this fact to the Judge, so that he (the Judge) after having cited the adjacent owners shall order the replacing of the boundary.

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## TITLE VII.

### Of the Right of the Miner to His Claim, and of the Piercing of Mines.

ARTICLE 87.—The grantee of a mine is the exclusive owner of all the mineral substances which exist or are found on his lot in all of its depth.

ART. 88.—The adjacent mine owners have the right of visiting the mines adjoining them, either personally or by means of an Engineer, or experts appointed by themselves or by the Judge.

ART. 89.—When the inspection already mentioned is based on suspicion that a neighboring mine is being pierced or encroached, or from fear of an overflow of water, then the Engineer or expert shall have the right to measure the works of the mine which is adjacent to that of the party complaining.

ART. 90.—Any opposition, difficulty or obstacle placed in the way of the inspection shall be taken as a presumption of bad faith.

ART. 91.—Should it be proven from the measurement made by the Engineer or expert appointed by the Judge that there has been an encroachment, the Judge shall order a suspension of the works causing the trespass, and also cause seals to be affixed to the divisional points while the parties interested are proceeding legally to have their rights determined in a suit at law.

ART. 92.—Every one who trespasses by encroaching is sub-





ject to the restitution of the value which he may have realized from the encroachment, which value shall be ascertained by the opinion of appraisers; and in case of bad faith, the trespasser shall also be subject to prosecution for larceny.

ART. 93.—When the encroachment extends beyond a limit of twenty meters, bad faith is presumed.

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## TITLE VIII.

### The Exploitation of Mines, and Services Due.

ARTICLE 94.—The working and exploitation of mines shall be in accordance with the rules of this act; also according to the police and security dispositions which are prescribed in this Code, and also other regulations issued to this effect.

ART. 95.—So as to carry into effect the preceding Article, the mines shall be subject to the vigilance of the Political Chiefs, who will determine as to their inspection in the manner and at the time which they shall deem convenient.

ART. 96.—The miner or the one who exploits the mine must place at the disposition of the appointed Inspectors all the necessities for the proper discharge of their duties.

ART. 97.—The miners, should they be so required, shall also exhibit to the Inspectors, the books, plans, laborers' list and other data which may be useful to them in gathering complete information touching the exploitation.

ART. 98.—The owners or administrators of mines are under the obligation of keeping their works well ventilated in such a manner that the laborers shall not be drowned or suffocated by the accumulation of water or by the agglomeration or retention of gas or unhealthy miasma.

ART. 99.—Owners or administrators of mines are prohibited, under a penalty of from fifty to three hundred dollars, from permitting the laborers to work in the mines, where the lamps burn with difficulty or are easily extinguished for want of air. In case of accidents occurring, they shall be criminally and civilly responsible.

ART. 100.—It is also prohibited, under the penalty of from twenty-five to two hundred dollars, that any work should be performed in darkness.

ART. 101.—Miners are under the obligation of securing the



roof and sides of the mine where work is being carried on. This is to be accomplished by means of timbers, cement walls, etc., in accordance with the consistency or softness of the rock or layer, under a penalty of from fifty to three hundred dollars for the first offense; and, for the second, the forfeiture of the mine should they fail to execute within the time specified by the Political Chief the work which he deems necessary for protection.

ART. 102.—Without the permit of the Political Chief no mine can be drained by means of an inferior level. The permit, which can be granted on the opinion of the Inspector, shall also mention the precautions which are to be observed so as to prevent accidents.

ART. 103.—The violation of the preceding Article shall be punished by a fine of from fifty to two hundred dollars without prejudice to the claims for civil and criminal responsibility in case of an accident occurring.

ART. 104.—The owner of a mine, who, through want of proper care in the drainage of his mine, causes damage to a mine situated on a lower level, will be obligated to pay an indemnity to the latter the amount of which shall be appraised by experts.

ART. 105.—In the entrances where the declivity exceeds thirty-five degrees, the gangways must be substantially built so as to afford a secure entrance and exit for the employees.

ART. 106.—Should the declivity reach the average of forty degrees, then, besides the gangway, the mine must be provided with steps or grades cut out of the rock or artificially made.

ART. 107.—The violation of the two preceding Articles shall be punished by a fine of from fifty to one hundred dollars.

ART. 108.—The ladders placed into the shafts, must, for the security of the employees, be properly constructed. The infraction of this shall be punished by a fine equal to that which is mentioned in the preceding Article.

ART. 109.—In cases where the laborers have to go down into the mine in cars or cages, then the owners of the mine shall use cables, and an apparatus of the first grade or quality, which, for the purpose of avoiding accidents, the Political Chief, on the advice of the Inspector, shall prescribe.

ART. 110.—In all mining operations only first-class fuse shall be used in connection with the powder employed.

ART. 111.—In the preparation of the shots (that is to say the ramming of the powder in the drilled holes) only ramrods,



the outside surfaces of which are of soft iron, bronze or other materials which do not produce sparks, shall be used.

ART. 112.—The employment in the interior of a mine, of women, and also of boys under 12 years of age, is prohibited under a penalty of from ten to fifty dollars.

ART. 113.—The mines are subjected to the obligation of facilitating the ventilation of those mines which require the same; and of also permitting the flow of the waters of the others to the natural drain.

They shall also permit transit over the surface as well as in the interior, necessary for the other mines, whenever this does not hamper or place difficulties in the way of the mines lending this service; but the damages caused by the uses and services referred to shall be previously paid in accordance to the valuation of appraisers.

ART. 114.—The damages caused to a mine by the works in the exploitation of another mine, shall, by the latter be paid to the former on a just appraisal made by experts. This does not debar the action in regard to the fine, should there be cause to impose one.

Should the exploitation or works extend under or below dwelling houses or other buildings, then the one who undertakes to do this may be required to furnish security so as to respond to the damages which may be caused by the works.

ART. 115.—If from the inspection of the mine made by the Inspector, it appears that the security of life and of the works is in danger for some reason, then the Inspector shall issue such orders as may be conducive to avoiding the cause of the danger.

ART. 116.—Whenever there is a claim made, then the opinion of one or more engineers, appointed by the Political Chief at the cost of the interested party, shall be heard, and this authority (the Political Chief) shall decide the merits of the claim based upon the opinion of the majority.

ART. 117.—If, from the report of the Engineer it is shown that there is imminent danger, then a provisional suspension of the works shall be ordered, notwithstanding any claim to the contrary.

ART. 118.—If by accident one or more individuals should have died or been seriously wounded, or the security of the employees should become jeopardized, then the owners, administrators or superintendents of the mine, must, under a penalty of from fifty to three hundred dollars, give immediate notice of the fact to the respective Judge, who, accompanied by the Engineer



or expert who may be found in the locality, shall, without delay, make an investigation of that which has occurred, the causes thereof, etc., and then issue the orders which are necessary to stop the danger and thus avert its consequences; and for these purposes he may use the tools and implements and animals of the mine as well as the employees thereof.

ART. 119.—The Inspectors of mines shall, in each case occurring, be appointed by the Political Chief of the Department. He shall, for the performance of this duty, select by preference a mining Engineer; and only when there is none can he appoint an expert to perform the duty.

ART. 120.—In the districts where there are vast mining industries, the Executive may make these appointments in a permanent manner.

ART. 121.—The fines mentioned in this Code shall be imposed by the District Judge, and shall be turned into the respective Subtreasury.

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## TITLE IX.

### Of the Working of Mines by Means of Adits, Pits or Shafts.

ARTICLE 122.—The miner may initiate his works by means of adits, pits or shafts initiated beyond the limits of his claim, provided the land be not occupied by other mines.

ART. 123.—If, so as to execute these works, it should become necessary to initiate them on the property of another, or cross in whole or in part that other's property, then, in case of the miner not being able to arrive at an agreement with the owner of the land, he (the miner) must solicit the permission of the respective Judge.

ART. 124.—The Judge, on the previous report of the Engineer affirming the following circumstances, shall grant the permit:

- 1st. That the work is possible and useful.
- 2d. That the work cannot be executed at any other point without incurring expenses excessively great.
- 3d. That the crossing does not impede or cause considerable difficulties to the exploitation of the mine proposed to be crossed.

ART. 125.—Each of the parties may nominate an expert so that these may proceed in common with the one appointed by the





Judge; and to this effect the Judge shall name by anticipation the day on which the examination of the ground is to be effected.

ART. 126.—Should there be any difference of opinion of the experts, then the case shall be proceeded with in accordance with Article 81.

ART. 127.—The Judge, in granting the license, shall specify the direction which the adit must take as well as its maximum extent or width on the adjoining property in accordance with the report of the Engineer or experts; and the one who has been granted the above permission has not the right of varying the direction, extent or width of the adit without having previously obtained a new permit, which shall not be granted without the report of the Engineer.

ART. 128.—A new license is not necessary when the variations are accidental, or when this is necessary to avoid difficulties presented in the execution of the works.

ART. 129.—Before beginning the execution of the adit or works, the one who enters into the undertaking shall have to give a bond to respond for the payment of the damages which may be occasioned to the property which is crossed.

ART. 130.—The owner of the mine crossed must respect the passage (galeria) which crosses it—must not interfere with the fortifying works and must abstain from taking out minerals which may leave the walls of his mine of a thickness of less than three meters, unless he fortifies them (the walls) in due form; but the one who makes the adit must pay all the expenses caused by this obligation.

ART. 131.—The one who, in crossing a mine, finds a metalliferous deposit in making the passage, has no right to exploit or improve the same. He shall limit himself to the labors in his adit and deliver to the owner of the mine crossed the metals found after deducting the expenses of extracting the same.

ART. 132.—The owners of the mines which drain through the medium of the adits or passage, or who are by this facilitated in the exploitation of their mines, must pay to the one making the passage in accordance with the valuation made by the experts, either the value of the benefits which he may receive, or the value of the costs which they (the owners) in obtaining this benefit by other means might have incurred.

This disposition is applicable also to drainage by means of pits or shafts.



## **TITLE X.**

### **Of the Alienation and Prescription of Mines, and Sale of Minerals.**

ARTICLE 133.—Mines may be alienated between living persons or transmitted by cause of death in the same manner as all other landed property.

ART. 134.—The ordinary possession of mines is acquired by a registry of the same legally effected; and from the moment of this having been done, the registered mine becomes subject to the prescription which governs in cases of recorded property.

ART. 135.—For the conveyance of mines and the constituting of real rights in them, there shall be in each Department a Registry of Mines which shall be in charge of the District Judge.

ART. 136.—The recording of mines shall be done according to the regulations which apply to the Registry of Immovable Property in so much as these may be applicable.

ART. 137.—The conveyance of those mines, the registry of which has not been ratified, or those to which no definitive property title has been executed, shall be effected by the inscription thereof in the book of discoveries.

ART. 138.—The sale of mines shall not be reputed as perfect until this is done by public act or deed; notwithstanding this, however, a deed under private signature relating to these (the mines) shall stand as a promise to execute a public deed.

ART. 139.—The period of possession necessary to acquire a mine by ordinary prescription shall be that of five years; and by the extraordinary prescription ten years without distinction as to persons present or absent.

ART. 140.—Minerals bought within the ore bins or depositories of a mine, or from a known miner, or in the presence of the Judge or witnesses who are not employees of the purchase, or under a certificate of the authority located at the mineral section by which certificate it is shown that the seller actually exploits a mine producing the same kind of metal as the one sold, or has acquired the minerals by legitimate title, cannot, in any manner, be revindicated.

ART. 141.—The purchase of stolen minerals, effected in the absence of the requisites mentioned in the preceding Article, sub-



jects the purchaser to being presumed as the concealer of the theft.

ART. 142.—In the case of the preceding Article it shall be sufficient if the claimant proves that minerals have been stolen from him, and that those in question are of the same kind which his mine produces.

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## **TITLE XI.**

### **Of the Hiring of Labor for a Stated Period.**

ARTICLE 143.—All contracts for labor service for a determinate period exceeding one year must be executed in writing; but the hired laborer shall not be obligated to remain in the said service for more than five years, counted from the date of the contract.

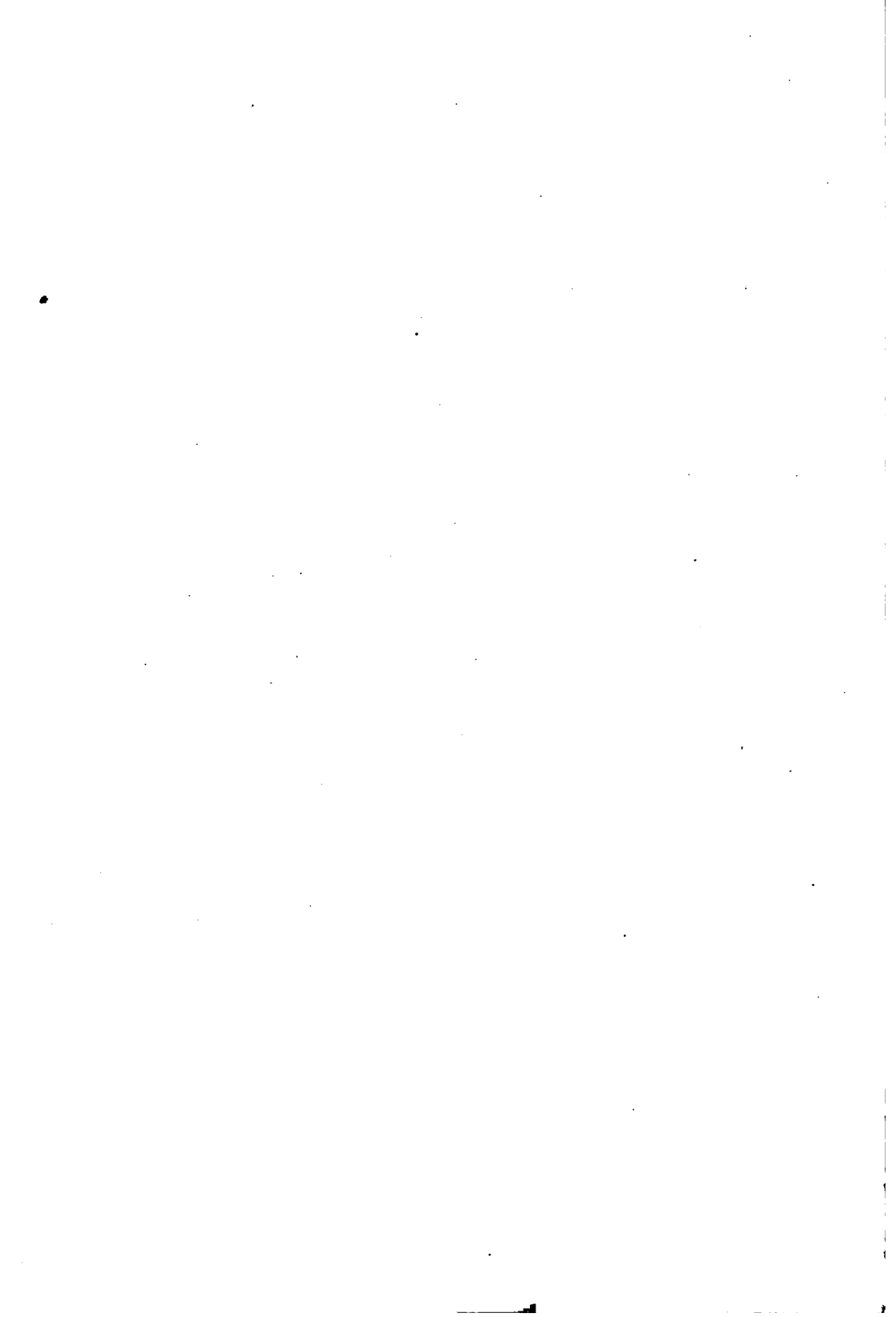
ART. 144.—Should there be no time stated, then the services will be terminated at the will of either of the parties. But, treating of superintendents, handicraftsmen or others of the same class, either party may give to the other notice of his intention to terminate the contract, although there may have been in the contract no time specified for this notice. But this notice shall be anticipated by at least fifteen days.

ART. 145.—The party who has hired his help for a determined period with the stipulation that the contract may be dissolved at a stated time, and who, without a grave cause, before the stipulated time, retires his services, then he shall have to pay to his employer an amount equivalent to one month's wages or an amount equal to the time specified within which to give notice to quit, or an amount equal to the number of days lacking to complete the period within which he could retire after giving notice.

ART. 146.—The employer who, in an analogous case, discharges the employee, shall be under the obligation of paying to the latter an equal amount, furthermore his (the employee's expenses in going to and from the locality, should he have had to change his residence in order to comply with his agreement in lending his services.

ART. 147.—The want of ability of the employee, his bad conduct or insubordination, or the fact that he is incapacitated for any cause during the lapse of one month, shall constitute a cause grave enough to justify the employer to put an end to the employee's services.

The employer, however, is under the obligation of seeing as



to the cure of the employee who shall have become sick by cause of his services or through accident occurring in the mine.

ART. 148.—It shall constitute a grave cause in favor of the employee, his ill-treatment by the employer; also the failure to pay him his wages at the period agreed upon or at the customary time.

ART. 149.—The employee, who shall run away after having received advances on account of his salary without having earned these (the advances), shall be responsible as a defrauder.

ART. 150.—Credit shall be given the books of the mine whenever these are regularly kept by an employee thereof and not by the operator (owner):

1st. In the order as to the amount of the salary.

2d. In the order as to the payment of the wages already due.

3d. In the order as to the amount advanced to the employee on account of his wages for the current month.

ART. 151.—Contracts made for the execution of determinate works as well as those referring to the administrators, bookkeepers and other employees of this category, are not subject to the foregoing rules, but to those of the ordinary action or procedure, although these contracts may have been made with a stipulated time.

ART. 152.—The salaries and wages earned by the laborers and other employees of the mine during the current month, must be paid by preference from the proceeds of the mines, and for this purpose even the tools and other utensils of the same may be sold.

ART. 153.—In regard to all other property of the miner, in cases of insolvency the payment of the wages and salaries of the laborers and employees shall be in accordance to the privileges granted by ordinary law to clerks and servants.

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## TITLE XII.

### Of Mining Companies.

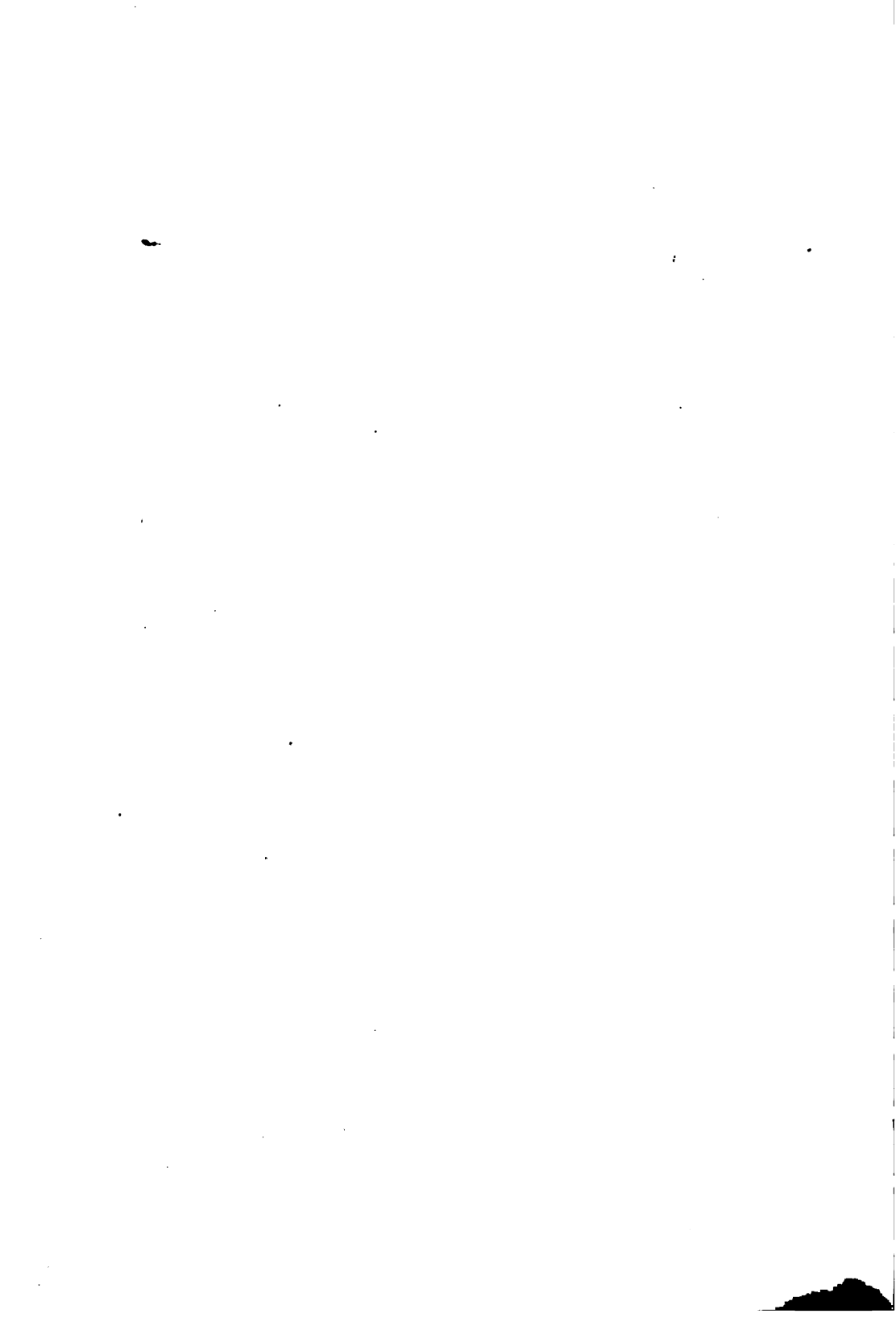
ARTICLE 154.—There is a company when two or more persons work in common one or more mines in accordance to the prescriptions of this Code.

ART. 155.—Companies are constituted:

1st. By the fact of registering a mine in company.

2d. By the fact of acquiring a part of a registered mine.





3d. By a special contract forming a company.  
This contract must be executed in the form of a public deed and must be inscribed in the Registry of Mines.

ART. 156.—All business concerning a company shall be treated of and resolved by a majority vote in meeting.

So as to form meetings, the presence of one-half of the partners, plus one, who have the right of voting is necessary; but on a previous citing of all of the partners, including even those who have no right to vote.

In the citation, the object of the meeting, as well as the day and hour on which it is to be held, shall be expressed.

ART. 157.—The citation shall be effected by means of notices and edicts. The notices shall be published in a newspaper of the Department three times during a period of fifteen days.

The edicts shall, during these fifteen days, be posted on the door of the court house.

There being no newspapers, the edicts will suffice.

ART. 158.—The partners who have the right to vote, or their representatives, should they be known, shall be personally cited in case they reside in the Department within which the mine is located.

In any other case the notices or edicts shall be considered as a sufficient citation.

ART. 159.—Whenever in the minutes of meetings their object is made to appear, together with the day and hour for a new or succeeding sessions, then it shall be supposed that the partners present have been personally cited.

ART. 160.—The meeting calls or orders of citation shall be issued by the President of the partnership whenever he deems convenient, or when any of the partners solicit it.

ART. 161.—In default of the President, the citation can be issued by two or more of the partners, or by the administrator (Superintendent) should this power have been conferred to him; and in case of the President's refusal, then the citation may also be issued by two or more partners.

ART. 162.—The partnership or its board of directors, must appoint a representative sufficiently authorized to act in every manner in so far as it relates to the authorities.

ART. 163.—In the deliberations, unless the contrary has been stipulated, the partners who own, or represent at least a portion or interest in the property of the mine to the extent of four cent., shall have the right of voting.

Those who own interests of a less amount may aggregate



their interests in common so as to form as many votes as these interests may compose.

ART. 164.—So as to constitute a majority, the number of voters shall not be taken into account, but the number of votes cast.

The votes cast by a single owner shall not by these form a majority. When these (the votes) are equal to one-half of the shares, or over, the voting shall be considered as a tie.

ART. 165.—The Judge shall decide in respect to the tie, on whatever cause this may be founded, taking into consideration that which is more in conformity with the law and the interest of the Company.

ARTICLE 166.—The partners may freely and effectively dispose of the interests which they have in the Company, but they remain under the obligation of satisfying all the charges and burdens to which they are obligated.

ART. 167.—The administration of the Company belongs to all of the partners; but these can, by a two-thirds vote of those present, elect one or more persons to fill this office.

ART. 168.—The duration, powers, duties and recompense of the administrator shall be determined at a meeting, if these shall not have been stipulated in the contract of copartnership.

ART. 169.—The administrators cannot, without special authority, contract debts or hypothecate the mine in whole or in part. Nor can they sell the minerals or bullion, appoint or discharge the administrators of the works.

In all cases the partners can oppose the sale of the minerals or bullion by paying the expenses according to their corresponding proportions.

ART. 170.—The expenses and products shall be distributed in proportion as to the partners or the number of shares which each partner has in the mine, if nothing to the contrary has been stipulated.

ART. 171.—Any stipulation which deprives a partner totally of a participation in the profits or products is void.

ART. 172.—The distribution of the profits or products shall be made whenever the majority of the partners so decide; and in case of their not being able to arrive at an agreement, then this shall be effected when the administrator of the Company and that of the mine deem it convenient.

ART. 173.—The distribution shall be made in minerals, bullion or money, according to the agreement of the partners.

When no agreement has been reached, then this shall be effected in money.



ART. 174.—The cost, as well as the extension of the works, which are to be executed in the mine and which are to be paid by its product, shall, whenever the amount exceeds one-half of the product, be decided by a majority of votes.

ART. 175.—Should the product of the mine be not sufficient, the partners shall fix the proportion which each has to furnish towards paying the expenses. In this case, so as to make the decision obligatory, the same must be effected by a two-thirds vote of the total number of those who have rights or shares in the mine; but in no case can a partner be obligated to contribute for works destined to the improvement or smelting of the metals which the mine produces.

ART. 176.—The Administrator of the copartnership has the right of disposing of the shares of the partner in the minerals, bullion or money when he (the partner) has failed to pay his *pro-rata* which is necessary to cover the expenses and also to cover the *pro-rata* which he should have contributed by anticipation.

ART. 177.—There is default:

1st. In the non-payment of the contribution at the time when it becomes due.

2d. When, in the absence of any stipulation or agreement, these contributions have not been paid within thirty days succeeding the demand made.

3d. When the expenses have been made without having demanded the payment of the *pro-rata*. Also the non-payment within fifteen days in cases where the expenses have exceeded the *pro-rata* contributed.

ART. 178.—In cases where the mine gives no products or when these are insufficient to cover the expenses incurred or those anticipated in whole or in part, then any of the contributing partners may petition the Judge to enforce the payment due by the defaulting partner under penalty of having renounced all his rights.

ART. 179.—On failure to make the payments within fifteen days after having been summoned, the portion of the mine belonging to the partner shall be considered as abandoned and shall be sold at public auction with a minimum estimate equal to the *pro-rata* due to the partners. Should there remain a surplus, this shall be paid to the defaulting partner after deducting the expenses of the sale.

ART. 180.—Should the product of the sale be insufficient to cover the amount due, the defaulting partner shall be free of all obligations towards the partnership.



ART. 181.—When the defaulting partner is not within the territory of the Republic, the summons shall be made by means of notices and edicts as is provided in Article 157; but, in the present case, notices shall be published five times during a period of thirty days, and the edicts during a similar period.

ART. 182.—The summoned partner may, during the thirty days, make his opposition to the pretensions of the others.

In his opposition he shall state clearly and in a precise manner the facts which justify him, annexing also the documents bearing upon the case.

Should the opposition be not made in the time already mentioned, then the Judge shall sell at public auction the shares in the mine belonging to the defaulting co-partner.

ART. 183.—The justifiable grounds on which the opposition can be found, are:

1st. The payment of the contribution or *pro-rata* ordered.

2d. That the amounts to be contributed have proceeded from the execution of works to which he (the opponent) has not consented, in cases where his consent was necessary.

3d. That the quantity or *pro-rata* which is solicited is for this class of works.

4th. That the minerals on hand are sufficient to cover the costs of the indebtedness.

ART. 184.—Mining companies are dissolved:

1st. By the fact that all the shares of the Company have been transferred to a single party.

2d. By the mine being declared as abandoned; and,

3d. When the Company was organized under special rules or stipulations, and the facts upon which the dissolution was stipulated have occurred.

ART. 185.—The Company which is dissolved by reason of the last mentioned cause in the preceding Article, will still preserve its legal existence among those who have their portion or shares in the mine.

ART. 186.—The Company is not dissolved by the death of one of the partners. But his heirs shall take his place in the proportion to which each of them is entitled.

ART. 187.—Prospecting companies are constituted by the fact of two or more persons associating themselves with the object of realizing (forming) an expedition having in view the discovery of mineral beds.

The agreement can be verbally made, or may be done under private signature or by public deed.





ART. 188.—Whenever the prospectors or persons who are employed in making the explorations receive no wages or other remuneration, they are then supposed to be partners in that which they have discovered

ART. 189.—The discoveries made by those who are employed under wages, belong to the one under whose pay they are.

Should there have been any promise or contract, this must be made to appear in writing.

### TITLE XIII.

#### Of the Advances Made To Mines.

ARTICLE 190.—By the pact of *avio* (to furnish supplies) the one who furnishes those supplies obligates himself to satisfy all the expenses necessary for the working of a mine; and his reimbursement shall come solely from the products of the mine.

ART. 191.—All contracts for the furnishing of supplies (*avios*) must be made to appear in writing; and so as to have effect against third persons or other creditors, these contracts must be executed by public deed which must be recorded.

ART. 192.—The (*avios*) contracts to furnish supplies can be executed for a fixed amount or determinate time or for the execution of one or more works in the mine.

ART. 193.—When the amount or determinate time does not appear in the contract, then any of the contracting parties may whenever they see fit, bring the agreement to an end by previously paying that which is due.

ART. 194.—The miner may, at any time, put an end to the *avios* (contract for supplies) by turning over his ownership of the mine to the furnisher, and this latter by renouncing his claim for the supplies.

ART. 195.—It may be stipulated that the payment of that which is due the furnisher of supplies can be paid in metals at prices to be fixed by the parties interested or by a third party, such as in the cases of a sale; or in money with the premiums which can be fixed without limitation whatever.

ART. 196.—It may also be stipulated that the furnisher can become owner of a part of the mine in compensation for the supplies; in this case the contract shall be governed by the rules which regulate mining co-partnerships.

But, should the furnisher, availing himself of the right conceded in Article 193 by ceasing to be the furnisher of supplies,



then the shares to which he became owner by virtue of the contract, shall return to the ownership of the miner and with no obligations or charges bearing against the latter.

ART. 197.—The supplies must be furnished by the supplier within the time stipulated, or now and then as the works require them; and if, after having been called upon, the supplier (*aviador*) should refuse to furnish the supplies, or delay in this to the damage of the works, then the miner can elect as to whether he will demand them through the corresponding channel, borrow money for account of the furnisher, or deal with a new furnisher whose credit shall be preferentially paid.

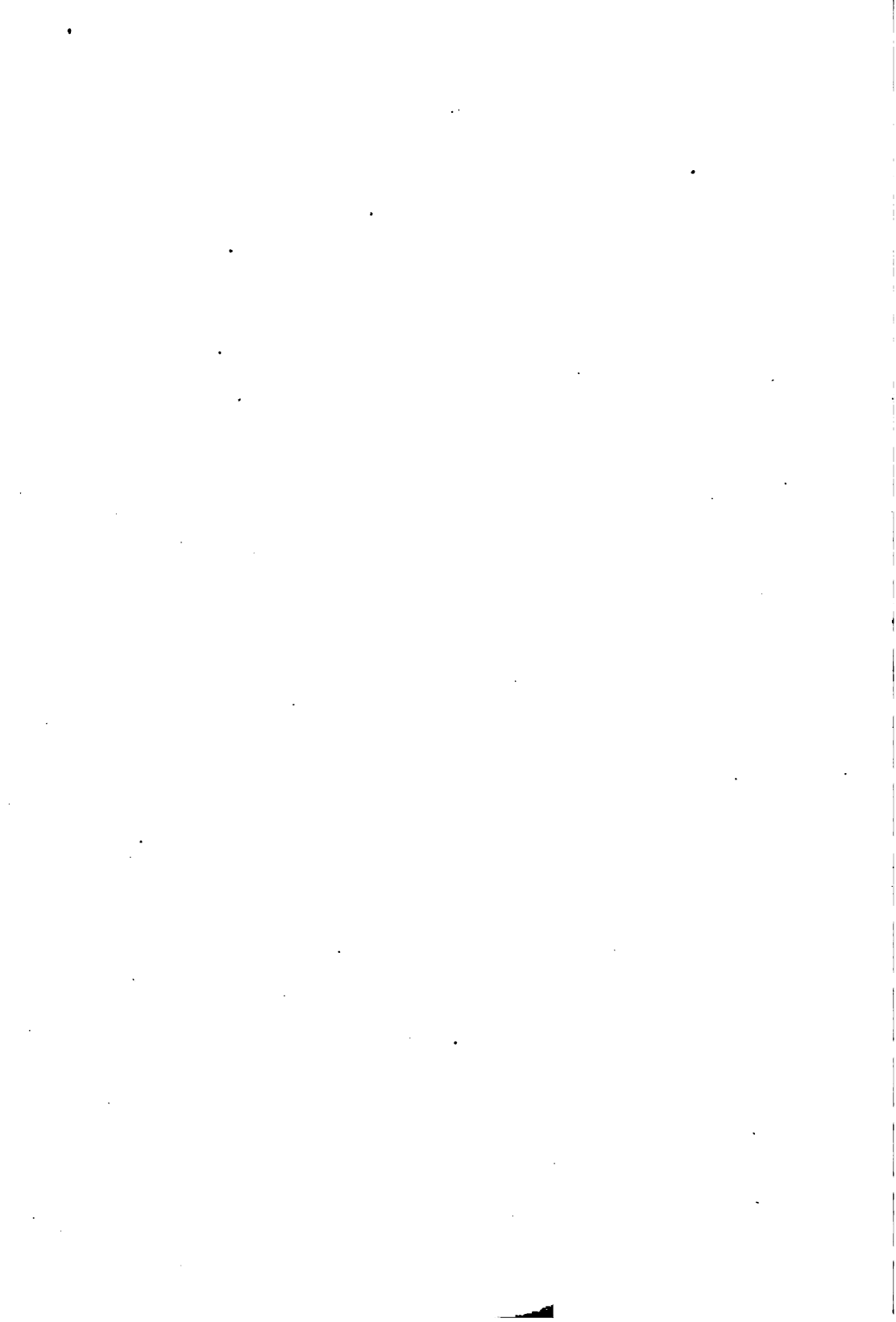
ART. 198.—Should the miner, without the consent of the supplier, employ for other purposes the funds or effects supplied, he (the miner) shall become responsible for abuse of confidence, and the furnisher shall have the right of taking charge of the mine and administering the same.

He (the supplier) shall also have this right whenever he can prove that the miner's administration is careless and expensive, notwithstanding the fact that the miner had been so advised to this effect in the claim made for this abuse.

ART. 199.—When the supplies have been consumed and the mine opened, the supplier shall have the right of retaining the mine and continue supplying it under his own administration until such time as he may be reimbursed by preference over all other creditors, with the exception, however, of anterior debts covered by mortgage for not only that which is due, but also for new supplies, with the premium and in the form stipulated in the contract.

ART. 200.—Should, in the case of the preceding Article, the furnisher does not wish to continue supplying the mine, then the miner will have the right of contracting with new furnishers, who shall have a preferential right over the anterior ones.

ART. 201.—The rights conceded to the furnisher by the preceding Articles do not deprive the owner of the mine of his right of examination and intervention in the same; and any opposition made to these rights by the furnisher in his acts of administration shall cause his being dispossessed of the administration of the mine. His administration shall also cease for abuse of confidence outside of his criminal responsibility.



## TITLE XIV.

### Of the Licenses and Forfeiture of Ownership in Mines.

ARTICLE 202.—The mines, the exploitation of which is conceded to individuals in accordance to the provisions of this Code, shall pay an annual license of five dollars for each hectare which is comprehended in the mining claims (*pertenencias*).

Those mining enterprises whose products are taxed a certain per cent. in favor of the Public Treasury, shall pay none of the charges established in this Code.

ART. 203.—The actual proprietors of mines shall pay the license before the measurement has been reduced or summed to hectares; and any fraction exceeding one-half of an hectare shall be considered as an entire one. That fraction which does not reach this limit (one-half hectare), shall go to the benefit of the miner.

ART. 204.—The license shall be paid at the Subtreasury of the Department in which the mine is situated, between the first and last day of January, inclusive.

ART. 205.—The amount of the license which is to be paid by the grantees on the ratification of the registry, shall be in proportion to the time necessary to complete the annual period ending on the first of January of each year.

ART. 206.—The mining concession or property right in a mine only lapses by the failure of paying the license within the time specified in this Code, in which case and on a previous order of forfeiture, the mine or mining property shall be put at public auction for the purpose of adjudicating the same to the highest bidder with the condition of continuing in the payment of the corresponding license.

ART. 207.—From the proceeds of the sale, double the amount due shall be retained for the benefit of the Fisc, which shall be the lowest bid which can be accepted; the surplus after deducting the costs, shall be turned over to the former grantee. This one (the grantee) may suspend the auction sale of his property by paying a sum double the amount due for the license.

ART. 208.—Should there be no bidder, the Judge shall order the proceedings placed into the archives for the purposes of re-opening the auction sale, should any person solicit this. At the expiration of five years, the land shall be free and subject to denouncement by anyone so interested, save, however, the case in which this latter prefers to have the property sold at public auction, and paying the amount due for the license during that period.



ART. 209.—During the first fifteen days of February, the Department Subtreasurer shall forward to the respective District Judge a list of the mining properties for which the corresponding licenses have not been paid.

The Subtreasurer, for his omission in the performance of this duty, shall be subject to a fine of from one hundred to five hundred dollars without excepting the right of compelling him to forward the list referred to.

ART. 210.—The Judge shall order published five times in a newspaper of the Department, should there be one; and in the absence of any, then this shall be done by edicts, in which the day and the hour of the auction sale shall be fixed, which sale must be effected within forty-five days counted from the date of the first notice.

ART. 211.—The District Judges, shall, every three months, remit to the Tribunal of Accounts a list of the measured concessions, or of those the registry of which have been ratified or been inscribed during the same period.

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## TITLE XV.

### Of the Mineral Zones.

ARTICLE 212.—For the purposes of undertaking mining works on a large scale, mining *zonés* may be solicited from the Executive, which can be conceded in an extension proportionate with the means which the petitioner possesses for the exploitation.

The grantees of mining zones shall have the exclusive right of prospecting within their limits.

ART. 213.—The Executive Power has a right of conceding to mining enterprises sites for plants (*plantetes*) for the purposes of establishing the works necessary for the improvement of ores, and also for waters; as well as lands necessary for the exploitation of mines or mining zones, the improvement of their products and other uses.

ART. 214.—The petition to the Executive Power for the acquisition of any of the properties mentioned in the foregoing Article, shall, at the expense of the parties interested, be published in any newspaper of the Capital three times during the space of one month; also communicating the fact to the District Judge of the jurisdiction in which these (the properties) are situated. The priority of the petition filed before the Executive Power or Judge shall, in cases of conflicting claims or opposition, serve as a base in the preferential adjudication as between the grantees, or be-





tween these (the grantees) and the denouncers. Nevertheless, the concessions herein referred to shall have to be submitted to the approbation of the Legislative Power.

ART. 215.—The President of the Republic, the Minister of Public Improvements, members of the Legislative Power and the children of the above-mentioned functionaries who are still under the paternal authority, are prohibited from acquiring mining concessions or any part therein.

ART. 216.—The lands (*planteles*) and superficial concessions destined to establishing works for improving the ores shall not exceed an area of one hundred hectarsc, and these shall belong exclusively to those to whom they have been granted as long as they pay the license. In consequence thereof, they have the right of demanding the disoccupation from those who may have located or may have established any works on the lands, such as gardens, cultivations, dwelling houses or other analagous things upon reimbursing the value thereof at a just appraisement by experts as well as the value of the land should this be private property.

ART. 217.—Whenever various mines solicit water power or any site for the purpose of establishing works for improving the metals, and there should not be enough to satisfy the needs of all the interested parties, then the preference shall be given to the one who offers the best guarantees of working on the largest scale. In an equality if circumstances, the preference shall be given the one who was prior in the filing of his petition.

ART. 218.—All disputes arising between miners over the question of water, wood or timber, boundaries of mines, sites (*planteles*) or mineral zones, shall be submitted to the knowledge and decision of a Tribunal of Arbitrators, the suit to be determined within one month, saving, however, that the parties thereto can prove that the evidence which they propose to offer can only be taken outside of the territory of the Republic. In this case the Tribunal may extend the time to as long as three months.

ART. 219.—In the concessions given for the exploitation of zones of auriferous sands, the rights of the natives of Nicaragua shall always remain secure, so that they may continue, by the means actually employed, and without the use of machinery, the exploitation; but this at a distance of not less than two hundred meters from the regular plants owned by the grantees.

ART. 220.—The mining zones are subject to the payment of an annual license of twenty cents for each hectare contained therein.

The concessions for lands (*planteles*) and works for im-



proving the ores shall pay at the rate of two dollars annually for each hectare.

ART. 221.—The payment of the license and its forfeiture shall be subject to the provisions regulating mining claims; and so far as they may be applicable, all other provisions of this Code shall effect in cases referring to mining zones, sites, plants (*planteles*) and establishments for improving the products.

ART. 222.—In cases where the zone is put up at public auction and no adjudication is effected for want of bids, the respective proceedings shall be placed in the archives of the Ministry of Improvements so that anyone who may be interested in the auction sale may present himself; but at the expiration of five years after the termination, the Executive shall have the power to concede the right of ownership to the mining zone either on a denouncement being made or by contract; executing in this case the title corresponding thereto.

ART. 223.—The grantees of mining zones must establish a mining property within one year counted from the date of the concession. In case of failure to do this, then they shall pay over and above the license for the zone, the maximum price per hectare corresponding to mining claims.

ART. 224.—The failure to have the measurement effected within the time fixed shall constitute a ground for forfeiting the concession. The time fixed may, however, be extended on showing just cause. The default of the party in the matter of his petition for the zone for the lapse of six months shall be a cause for its forfeiture.

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## TITLE XVI.

### Of the Right of Miners.

ARTICLE 225.—All those engaged in mining industries, shall, without paying any tax therefor, have the right of making use of the timber or wood found in the National forests or on the Commons within a radius of five kilometers from the working plant; also of the free waters and all materials necessary for the works, without any other restrictions than those emitted by the Executive Power or municipalities with the due approbation.

ART. 226.—They shall have the exclusive right also of making use of all the timber which is to be found on National lands situated within the limits of the zone or mining claim which has been granted, but subjecting themselves in this case to the regulations emitted by the Executive Power.



ART. 227.—The matriculation of miners, of companies or individuals, native or foreign, who dedicate themselves to formal mining works, is established.

ART. 228.—The matriculations shall be in charge of the Political Chiefs (Jefes Politicos) of the respective Departments and shall consist in the recording of the individual or company soliciting the same, the name of the mine which is being exploited and the class of minerals it produces. A copy of this record shall be given to the interested party.

ART. 229.—So as to make the inscription, the Political Chief (Jefes Politicos) in their respective Departments shall exact the definitive property title to the mine and a judicial information to the effect that the mine is being actually worked.

ART. 230.—The matriculations shall be renewed every six months, and the Political Chiefs (Jefes Politicos) shall render an account of the same to the Minister of Finance for the purposes hereinafter mentioned.

ART. 231.—The matriculated miners shall enjoy the special concessions which are further on mentioned:

1st. The free exportation of the silver, copper, lead and other metals which they improve without paying any duties or taxes; with the exception, however, of gold on which the duties now actually imposed shall remain in force.

2d. The introduction free of all duties or taxes of all machinery dedicated to the working of stamps, the crushing and grinding of ores, for extracting the metals from these, to work the iron and steel, to saw lumber and other things which are analagous whether these machineries be propelled by steam or water power; water pumps, spades, hammers, machetes, axes, drills, wedges, grindstones, ovens, anvils and other similar tools; powder of all kinds, caps and fuse to produce explosion; oils for lighting and greasing purposes; materials in the crude state, such as steel for drills, iron either in sheet or bar, nails, fish plates, screws, pipes, whether of iron, bronze or brass; lead, guttapercha or any other matter; locks or hinges, rope of steel, iron, hemp or of any other material; brass or silver plates and bar copper for smelting; bronze, tin, lead, quicksilver or any material necessary to carry on the works; diamonds in the rough or with teeth, and diamond drills to bore rock; all material used in assaying quartz or for the purpose of improving (working) the same, such as crucibles, furnaces for melting; chemical ingredients, whether they be for the purposes of combination and analysis or to be used in the operation of milling the quartz or extracting therefrom the gold, silver or copper which is therein contained, which



ingredients may consist of acids, sulphur or metallic salts; glass jars for chemical operations, candles made of sperm or of other substances, and camp tents made of cloth.

3d. The exemption from garrison duty of all the employees or operators in the mines and their offices as well as the exemption from council duty during the time that they remain in the said employment, but on condition that they contract their services for at least six months; and for this effect the owners shall matriculate in the office of the Commander (*Comandancia*) of the Department the number of employees indispensably necessary for the works of the enterprise.

ART. 232.—The goods mentioned in paragraph 2 of the preceding article must be directly imported from abroad by the mine owners or the administrators who represent them; and a copy of the order must be forwarded to the Minister of Finance. These goods shall be forwarded from the ports to the mines to which they belong, and the permit (*guia*) for their transport shall be given by the Custom House Chiefs. These permits shall be returned with the signature of the Mayor (*Alcalde Municipal*) of the jurisdiction in which the mine is situated.

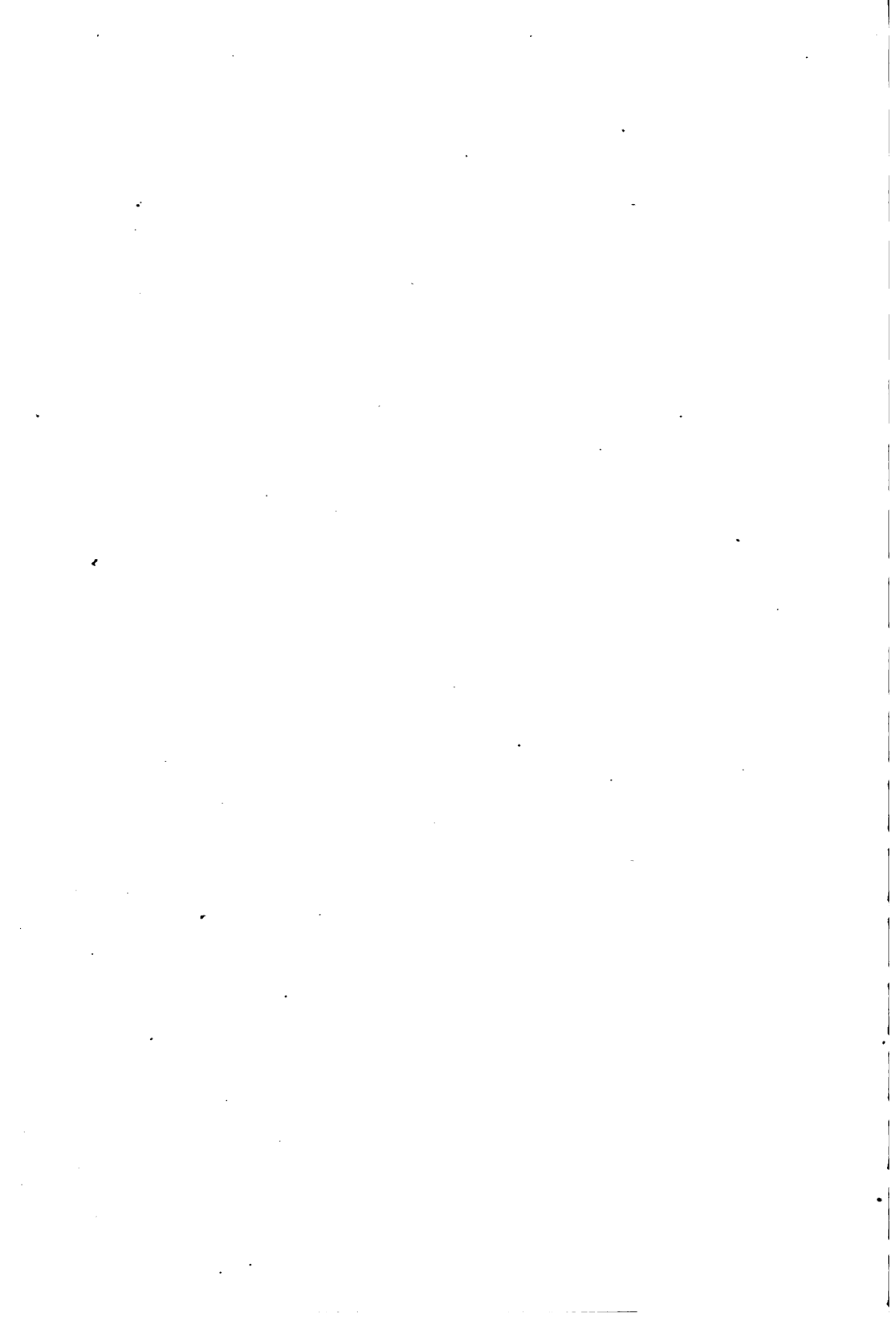
ART. 233.—The mine owners are under the obligation of constructing a safe depository for the powder and other explosive substances.

The depositories shall not be permitted within the limits of any settlement.

ART. 234.—Mine owners have no right to sell powder or other articles which are taxed by the custom tariff and which were introduced during the period of operating the mines and by virtue of the present concessions. Those found guilty of contravening these provisions shall be tried as smugglers and shall lose the right of making use of the privileges granted in this title; but the matriculated miners residing in the same district may, in urgent cases, loan or sell among themselves those articles which are wanting for the executing of their works, but on previously proving the necessity before the respective local judge.

ART. 235.—Once a mine is abandoned its owners shall have the right of selling, at the most, that is to say at cost price with expenses added, the machinery, tools and other implements; but previous to the execution of the sale they shall deliver to the Government an inventory of all these effects, so that it (the Government) should it so decide, may purchase all or a part of the effects referred to, with a preferential right to be exercised within a period of two months.





## TITLE XVII.

### Transitory Provisions.

ARTICLE 236.—The actual possessors of mines, must, without prejudice to the acquired rights of third persons, have their mining claims (*pertenencias*) constituted in the form determined by the present Code.

ART. 237.—Those mines which are found abandoned at the time at which the present Code begins to take effect, are denounceable by any person, and their acquisition and right of ownership shall be subject to the provisions laid down in this Code.

ART. 238.—In all cases in which the present Code does not lay down rules of special procedure in mining matters, then these (the mining questions) shall be determined according to the ordinary law.

ART. 239.—The President of the Republic is hereby authorized to emit any regulation which may be necessary in facilitating the execution of the provisions of this Code.

ART. 240.—The present Code shall begin to have effect from the first day of April of this year, and on this date all the pre-existing laws and dispositions or parts thereof, on the subject-matter of mining, are hereby repealed, although they may not be contrary to the provisions of this Code.

Passed in the Session Hall at Managua, on the Seventeenth of February, One Thousand Nine Hundred and Six.

Fernando Sanchez, Deputy and President—Leon F. Aragon, Deputy and Secretary—E. Zamora, Deputy and Secretary.

Publish this—Managua, February 19, 1906—J. S. Zelaya  
—The Minister of Justice, J. Irias.

# Mining Code Amended

## Needed Reforms Effected By Executive Decree.

The President of the Republic,

Considering,

That until a total reform of the laws regulating the Mining Industry is brought about and in accordance with the progress attained by the same, deems it convenient to make various reforms in the Code treating of the matter, and to dictate dispositions which tend to the better development of enterprises already established, and using the legislative faculties with which he is invested,

### DECREES:

The following reforms to the Mining Code of the 19th of February of 1906.

Art. 1<sup>o</sup>—The Article 62 will read as follows:

Ninety days after the registering is ratified, any qualified person may solicit a claim adjoining those of the discoverer, in the direction of the vein or ledge, and it can only be done in the direction of the dip or pitch of those whose formation lays horizontally in strata in such a manner that they do not present a proper continuation following a determined direction.

These solicitudes will be entered in the register and will be published in the same manner as that of the discoverer.

If the solicitude refers to a distinct ledge situated on the side of the pitch of another already conceded and less than three hundred meters from the limits of said claims, the publication of it will not be sufficient, but the solicitude will be notified in conformity with Art. 65 of the Code, being subject to nullity in favor of the owner of the known ledge; who will have the preference in the adjudication of the new solicitude, if he makes his right valid within thirty days, plus the interval of time necessary to cover the distance, to begin from the moment of notification.

El Presidente de la República,

Considerando:

que mientras se lleva á efecto la reforma total de las leyes que reglamentan la industria minera, en consonancia con los progresos alcanzados en ella es conveniente hacer algunas reformas al Código de la materia y dictar otras disposiciones que tiendan al mejor desarrollo de las empresas establecidas, en uso de las facultades legislativas de que se halla investido,

### DECRETA:

Las siguientes reformas al Código de Minería de 19 de Febrero de 1906.

Art. 1<sup>o</sup>—El Art. 62 se leerá así: Noventa días después que se ratifique el registro, cualquiera persona hábil puede solicitar pertenencia colindante con las del descubridor, por el hilo ó rumbo del criadero; y solamente se podrá hacerse *por su hechado ó recuesto* en aquellas cuya formación es en capas de tal manera horizontales, que propiamente no presentan una corrida de rumbo determinado.

Estas solicitudes se inscribirán en el registro y se publicarán de la misma manera que la del descubridor.

Si la solicitud se refiere á criadero distinto, situado por el lado del recuesto de otro ya concedido, y á menos de trescientos metros de los límites de las pertenencias de éstos, no bastará la publicación, sino que la solicitud se notificará conforme al artículo 65 de la ley, pena de nulidad al dueño del criadero conocido; quien tendrá preferencia para que se le adjudique el de la nueva solicitud, si hace valer su derecho dentro de 30 días, más el término de la distancia, á contar desde la notificación.

Art. 2. Art. 212 is derogated. This derogation and the following reform of Art. 214 does not affect pending denunciations and concessions, the procedure of which will continue and be governed in conformity with the dispositions of the Code and its reforms.

Art. 3. Article 214 will read: at the expense of the interested parties will be published three separate times within the term of one month in any newspaper of the capital the solicitude made to the Executive Power to acquire the sites and plantels, referred to in Article 213; the solicitude to be communicated to the District Judge in whose jurisdiction said properties are situated.

Priority of petition made to the Executive or the Judge will establish the preference in the adjudication, excepting that which is ordered by Art. 217.

Art. 4.—Article 218 is derogated.

Art. 5.—Article 222 will read as follows: failure of payment of the right in conformity with Art. 204 of the Law, will immediately cause the caducity of any zone concession without recourse; the concessionaire having the right to retain only the mining properties which he may have legally established.

Art. 6.—Article 223 will read: the concessionaires of zones are obliged to establish at least one mining property within the first year of their concession; not fulfilling which they will pay as an annual contribution one peso for each hectarea contained in said zones.

If, after five years from the granting of the concession the legal obligations to develop the zone on a large scale are not fulfilled, the concession will terminate, the rights acquired in it will be lost, except that of the concessionaire retaining the mining properties which he may have legally established.

Art. 7. Article 224 will read: Failure to measure the zone during the time allowed for same will cause caducity of the concession. Time allowance may be extended only once, and for a period not exceeding the first.

Art. 2º—Se deroga el artículo 212. Esta derogatoria y la reforma siguiente del Art. 214, no afectan las denuncias y concesiones pendientes, las cuales seguirán tramitándose y rigiéndose conforme las disposiciones del Código y sus reformas.

Art 3º—El art. 214 se leerá: A costa de los interesados se publicará por 3 veces en el término de un mes en cualquier periódico de la capital la solicitud que se hiciere ante el Poder Ejecutivo para adquirir los sitios y planteles á que se refiere el art. 213; debiéndose comunicar la solicitud al Juez de Distrito en cuya jurisdicción estuvieran situados dichos inmuebles.

La prioridad de petición hecha ante el Ejecutivo ó ante el Juez, determinará la preferencia en la adjudicación, salvo lo que dispone el art. 217.

Art. 4º—Derógase el artículo 218.

Art. 5º—El artículo 222 se leerá así: La falta de pago de la patente conforme el artículo 204 de la ley, causa de hecho la caducidad de toda concesión de zona sin ulterior recurso; teniendo el concesionario solo el derecho de conservar las propiedades mineras que hubiese constituido legalmente.

Art. 6º—El artículo 223 se leerá: Los concesionarios de zonas están obligados á constituir por lo menos una propiedad minera, dentro del primer año de la concesión; y no haciéndolo, pagarán como patente anual un peso por cada hectárea de la extensión que dichas zonas contengan.

Si pasados cinco años de la concesión no aparecieren llenados los objetos legales, de hacer una explotación en grande escala, caducará la concesión, perdiéndose los derechos adquiridos en ella salvo el de conservar el concesionario las propiedades mineras que hubiese constituidos legalmente.

Art. 7º—El artículo 224 se leerá: será causa de caducidad de la concesión el no practicarse la mensura de la zona en el plazo que se fije; el cual podrá prorrogarse por una sola vez y por igual espacio de tiempo.

La falta de instancia del interesado para que se le dé el curso correspondiente á su solicitud de zona ó de plazo, durante seis meses, dará lugar á la caducidad del denuncia.

Art. 8º—Á la fracción segunda del artículo 221 se le da la siguiente redacción:



If for a period of six months the interested party fails to demand the furtherance of his solicitude of a zone or extension of time, this will occasion the caducity of the denouncement.

Art. 8. The following paragraph will be added to the second part of Art. 231: likewise coal, naptha, gasoline, crude petroleum and any other similar combustible; tanks and vessels for the transportation and preservation of the same; all classes of utensils necessary for the process of cyaniding, such as cyanides, tanks, iron or wooden boxes for precipitating, zinc in sheet or chips; lathes to make these, pipes, ovens and other articles and substances used in the aforesaid system.

Art. 9. Article 230 will read: The renewal of matriculations will be made each year and the Jefe Políticos will remit a copy of them to the Ministry of Hacienda with the object mentioned in the following.

Art. 10. It is prohibited to make clearings and sowings or establish whatever other agricultural or cattle breeding enterprises on the lands near to mines that are being worked, or near springs or fountains and on the banks of rivers and streams whose waters are utilized in mining establishments; and miners will only be permitted to establish yards or small gardens and pastures for the penning of their animals or other usages necessary to their undertaking.

Lands within a radius of fifteen hundred meters will be considered as close to a mine.

Any contravention to the requirements of this article will be punished executively by the mining authorities with a fine of from 100 to 500 pesos, such to be destined for the repair of the roads of that district.

Art. 11. The present law will begin to be in force from its publication and derogates all measures opposing it.

Given in Managua on the 26th day of the month of September of 1911.

ADOLFO DIAZ.  
The Minister of Fomento,  
A. CANTON.

ciso: Asimismo, carbón, nafta, gasolina, petróleo crudo y cualquiera otro combustible semejante; tanques y vasijas para el transporte y conservación de los mismos; toda clase de utensilios necesarios para el procedimiento de cianuración como cianuros, tanques, cajas de precipitar de hierro ó madera, zinc laminado ó en viruta, tornos para hacer éstos, llaves, bombas, tubos, hornos y demás objetos y sustancias usadas en dicho sistema.

Art. 9º—El artículo 230 se leerá: La renovación de las matrículas se hará cada año y los Jefes Políticos remitirán un conocimiento de ella al Ministerio de Hacienda, para los fines que adelante se expresan.

Art. 10º—Es prohibido hacer desmontes y cementeras, ó establecer otra cualquiera empresa de agricultura ó ganadería en los terrenos próximos á las minas en explotación, ó en las cercanías de los manantiales y fuentes, y á orillas de los ríos y quebradas cuyas aguas se utilizan en establecimiento de beneficio; y solo será permitido á los mineros hacer patios ó pequeñas huertas y dehesas para el encierro de sus bestias á otros usos indispensable á su empresa.

Se entenderá por terrenos próximos á las minas los comprendidos en un radio de mil quinientos metros.

La contravención á lo dispuesto por este artículo, será castigado gubernativamente por la autoridad de minería con multa de cien á quinientos pesos, que se destinarán á la composición de caminos del respectivo distrito.

Art. 11º—La presente ley comenzará á regir desde su publicación, y deroga cualquiera disposición que se oponga.

Dado en Managua, á los 26 días del mes de Septiembre de 1911—  
Adolfo Diaz—El Ministro de Fomento—A. Cantón.

## Gems In Verse

### ONE OF MORGAN'S MEN.

**G**IRL of the yellow roses,  
In the glow of a bygone day,  
Dark were your eyes with dream-  
ing,

Wistful your smile alway,  
And I, your gay young lover,  
Had small chance of wooing you then,  
For you were a girl of Kentucky  
And I one of Morgan's men.

I can see you yet as you waited  
'Neath the elm by the old yard gate.  
And your heart beat fast as my horse's  
hoofs,

For Young Love had found his mate.  
High were my hopes and my heart, dear,  
I laughed at your bodings then,  
And I left you, my Lady of Roses,  
To ride with Morgan's men.

Scurry of hoofs on the moonlit road,  
Flashing of swords in flight,  
Daredevil song 'midst the roar of guns,  
Daredevil charge through the night.  
Here with the twilight shadows,  
There when day broke again;  
Like the bolt of the fierce white lightning  
Was the rush of Morgan's men.

But the war was not for our winning,  
Girl of the days of yore.  
Outworn we were and outnumbered,  
Beaten and bruised and sore.  
Yet from defeat you called me  
Back to your heart again  
And lifted your loyal lips to my kiss.  
Alas for Morgan's men!

Love, the breath of your roses  
Was never half so sweet  
As your smile when into the "way of  
peace"

You guided my weary feet.  
And that smile is still my sunshine,  
And the dreams you were dreaming then  
Have all come true for a fellow  
Who was one of Morgan's men.

—Eleanor Duncan Wood.

### FATE.

**T**HERE is a rider—his name  
is Fate—

He rides early, and he rides  
late;

He rides for joy, and he  
rides for scorn,

For courage and fear and hope for-  
lorn.

My men and I went on a raid.  
One of my men was sore afraid.  
He fell behind. The foe lurked  
near;  
Then Fate found him—he is not  
here.

One of my men delayed for this—

# Atla

GENERA

# Ni

Strs. Senator a  
and Pe

COI

Freight and P  
Pear

For :

# Atla

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